

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

|                           |   |                                |
|---------------------------|---|--------------------------------|
| JOEL DALE HILTON,         | ) |                                |
|                           | ) |                                |
| Petitioner,               | ) |                                |
|                           | ) |                                |
| vs.                       | ) | Case No. 1:15-cv-01023-TWP-DKL |
|                           | ) |                                |
| UNITED STATES OF AMERICA. | ) |                                |

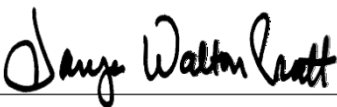
**Entry Dismissing Section 2255 Action Without Prejudice  
and Directing Entry of Final Judgment**

This action has been opened as a motion to vacate under 28 U.S.C. § 2255, however, Mr. Hilton's direct appeal, CA No. 15-2201, is still pending in the underlying criminal action, No. 1:14-cr-00167-TWP-TAB-1. No extraordinary circumstances have been presented, and therefore, the § 2255 motion is premature and must be dismissed without prejudice. *See United States v. Barger*, 178 F.3d 844, 848 (7th Cir. 1999) (a district court should not consider a § 2255 motion while a direct appeal is pending because the disposition of the appeal could render the § 2255 motion moot); *United States v. Robinson*, 8 F.3d 398, 405 (7th Cir. 1993) ("The well-established general rule is that, absent extraordinary circumstances, the district court should not consider § 2255 motions while a direct appeal is pending."); *United States v. Davis*, 604 F.2d 474, 484 (7th Cir. 1979) (absent extraordinary circumstances, a § 2255 motion is improper while a direct appeal is pending). Judgment consistent with this Entry shall now issue.

A copy of this Entry shall also be docketed in the criminal action, No. 1:14-cr-00167-TWP-TAB-1.

**IT IS SO ORDERED.**

Date: 7/7/2015



TANYA WALTON PRATT, JUDGE  
United States District Court  
Southern District of Indiana

**NOTE TO CLERK: PROCESSING THIS DOCUMENT REQUIRES ACTIONS IN ADDITION TO DOCKETING AND DISTRIBUTION.**

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